

JAN 28 2010

PO BOX 345 12
BETHESDA, MD 20827MILLENNIUM
ENERGY CORPORATION

In the United States Patent and Trademark Office

Application Number: 10/692,755
Applicant: DR. RUSI TALEYARKHAN
Examiner: DR. RICARDO PALABRICA
Art Unit: 3663

January 28, 2010

Petition to Withdraw Notice of Abandonment

VIA FAX 571 273 8300

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Commissioner of Patents

United States Patent and Trademark Office

PO Box 1450

Alexandria, VA 22313 - 1450

Sir,

The appellant/petitioner thanks the examiner for a helpful discussion and respectfully submits further evidence of receipt by the USPTO of the Amendment to Appeal Brief as a response to the Notification of Non-Compliant Appeal Brief of April 1, 2009. This filing was to correct a previously filed Appeal Brief and does not establish a filing date.

The appellant/petitioner respectfully submits that it has been established beyond any reasonable doubt that the appellants document addressed to the Office with a matter relating to the Appeal Board was received by the Patent Office on April 13, 2009 at 1:21 PM, and signed for by a Mr./Ms. M. Boston on behalf of the Patent Office. The package weighed 1lb 2oz. Such a delivery is on record with the United States Post Office and the Certified Return Receipt Postcard was stamped by the Office and returned to the appellant/petitioner.

The appellant/petitioner respectfully submits that it is reasonable to expect due care from the Office in maintaining records of all documents that are received without exception. The appellant/petitioner respectfully submits that this burden of due care is greater still when the Office stamps and returns a receipt for an item of Certified United States Mail. Therefore the appellant/petitioner submits that the document under petition is established to have been received by the Office but has subsequently gone missing at the Office by no fault of the appellant/petitioner.


The examiner claims that the Office has no way of determining what was sent. However the Office has not identified an alternate substantial document of 1lb 2 oz that was received from the Appellant on April 13, 2009 at 1:21 PM, which on its own is Prima Facie evidence that the document received by the Office was the document that was sent by the appellant/petitioner, and is the subject of the Petition. The appellant/petitioner further submits that the weight of the submission corresponds to the nearly 80 pages of the appeal brief and the copy of the corrections submitted that further supports this Prima Facie evidence.

The appellant/petitioner submits furthermore that considering that the appellant/petitioner has one and only one Appeal that is pending with the Appeal Board, and considering that the Office sent a Notification of Non-Compliant Appeal Brief with regard to this Appeal on April 1, 2009 for response within one month, the document under Petition referencing the Appeal Board, confirmed by the Office to have been received on April 13, 2009 stands as Prima Facie evidence that the document under petition is the response to that notification by the Office, and is a uniquely identified single item of correspondence-- the Amended Appeal Brief-- that has been shown to have been accepted by the Office in the United States Postal Service Certification records.

Moreover, the appellant/petitioner submits that a duplicate copy of the document under petition and gone missing at the Office has been submitted with the petition, and if the Office locates the document under petition in due course, it may be verified that the duplicate is accurate and to weigh a similar amount to the weight on record at the United States Post Office. Finally the appellant/petitioner respectfully submits that the filing is a correction required for the Appeal and not a filing that establishes a filing date. There is no economic value with regard to an earlier date for the appellant/petitioner.

For at least these reasons the appellant/petitioner respectfully requests approval of the petition and withdrawal of the abandonment for this appeal.

Very respectfully

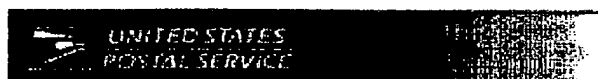


Dr. Arjuna I. Rajasingham
Chairman & Chief Executive
MILLENNIUM ENERGY CORPORATION

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